

HOUSE BILL 887

N2

6lr2650

By: **Delegate West**

Introduced and read first time: February 10, 2016

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Trust Act – Representation**

3 FOR the purpose of providing that, if a minor, an incapacitated, unborn, or unknown
4 individual, or an individual whose location is unknown and not reasonably
5 ascertainable is not otherwise represented under a certain provision of law relating
6 to certain trusts, a grandparent or more remote ancestor may represent and bind
7 that individual in certain circumstances; authorizing a minor, an incapacitated or
8 unborn individual, or an individual whose identity or location is unknown and not
9 reasonably ascertainable to be represented by and bound by another having a
10 substantially identical interest with respect to a particular question or dispute that
11 arises under a certain provision of law relating to certain trusts in certain
12 circumstances; and generally relating to trusts.

13 BY repealing and reenacting, with amendments,
14 Article – Estates and Trusts
15 Section 14.5–303
16 Annotated Code of Maryland
17 (2011 Replacement Volume and 2015 Supplement)

18 BY adding to
19 Article – Estates and Trusts
20 Section 14.5–304
21 Annotated Code of Maryland
22 (2011 Replacement Volume and 2015 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
24 That the Laws of Maryland read as follows:

25 **Article – Estates and Trusts**

26 14.5–303.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 To the extent there is no conflict of interest between the representative and the
2 person represented or among those being represented with respect to a particular question
3 or dispute:

4 (1) A guardian of the property may represent and bind the minor or
5 disabled person;

6 (2) A guardian of the person may represent and bind the minor or disabled
7 person if a guardian of the property has not been appointed;

8 (3) An agent having specific authority to act with respect to trust matters
9 may represent and bind the principal;

10 (4) A trustee of a trust that is a beneficiary of another trust may represent
11 and bind the beneficiaries of the trust that is the beneficiary of the other trust;

12 (5) A personal representative of the estate of a decedent that is a
13 beneficiary of a trust may represent and bind interested persons in the estate; [and]

14 (6) A parent may represent and bind the minor, incapacitated, unborn, or
15 unknown child of the parent or child of the parent whose location is unknown and not
16 reasonably ascertainable if a guardian of the property or guardian of the person for the
17 child has not been appointed; AND

18 **(7) IF A MINOR, AN INCAPACITATED, UNBORN, OR UNKNOWN**
19 **INDIVIDUAL OR AN INDIVIDUAL WHOSE LOCATION IS UNKNOWN AND NOT**
20 **REASONABLY ASCERTAINABLE IS NOT OTHERWISE REPRESENTED UNDER THIS**
21 **SECTION, A GRANDPARENT OR MORE REMOTE ANCESTOR MAY REPRESENT AND**
22 **BIND THE INDIVIDUAL.**

23 **14.5-304.**

24 **UNLESS OTHERWISE REPRESENTED, A MINOR, AN INCAPACITATED OR**
25 **UNBORN INDIVIDUAL, OR AN INDIVIDUAL WHOSE IDENTITY OR LOCATION IS**
26 **UNKNOWN AND NOT REASONABLY ASCERTAINABLE, MAY BE REPRESENTED BY AND**
27 **BOUND BY A REPRESENTATIVE HAVING A SUBSTANTIALLY IDENTICAL INTEREST**
28 **WITH RESPECT TO A PARTICULAR QUESTION OR DISPUTE, BUT ONLY TO THE EXTENT**
29 **THAT THERE IS NO CONFLICT OF INTEREST BETWEEN THE REPRESENTATIVE AND**
30 **THE INDIVIDUAL REPRESENTED WITH RESPECT TO THE QUESTION OR DISPUTE.**

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2016.